

1 AN ACT relating to the surviving spouse exemption.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 391.030 is amended to read as follows:

- 4 (1) Except as otherwise provided in this chapter, where any person dies intestate as to
5 his or her personal estate, or any part thereof, the surplus, after payment of funeral
6 expenses, charges of administration, and debts, shall pass and be distributed among
7 the same persons, and in the proportions, to whom and in which real estate is
8 directed to descend, except as follows:
- 9 (a) The personal estate of an infant shall be distributed as if he or she had died
10 after full age;
- 11 (b) An alien may be distributee as though he or she were a citizen; and
- 12 (c) ***There shall be an exemption available to the surviving spouse or surviving***
13 ***children totaling sixty thousand dollars (\$60,000). The surviving spouse and***
14 ***the surviving children shall each have access to fifty percent (50%) of the***
15 ***exemption. If there is no surviving spouse, the surviving children shall have***
16 ***access to one hundred percent (100%) of the exemption, and if there are no***
17 ***surviving children, the surviving spouse shall have access to one hundred***
18 ***percent (100%) of the exemption. The exemption shall be applied to***
19 ***personal property or money on hand or in a bank or other depository. The***
20 ***chosen property shall be exempt from distribution and sale and shall be set***
21 ***apart by the District Court having jurisdiction over the estate on application***
22 ***of the surviving spouse or surviving children***~~[Personal property or money on~~
23 ~~hand or in a bank or other depository to the amount of fifteen thousand dollars~~
24 ~~(\$15,000) shall be exempt from distribution and sale and shall be set apart by~~
25 ~~the District Court having jurisdiction over the estate on application to the~~
26 ~~surviving spouse, or, if there is no surviving spouse, to the surviving~~
27 ~~children].~~

1 (2) The surviving spouse may, at any time before the property or money is set apart by
2 the court, procure on petition from the Judge of the District Court having
3 jurisdiction over the estate, an order authorizing the surviving spouse to withdraw
4 from any bank or other depository not exceeding two thousand five hundred dollars
5 (\$2,500) belonging to the estate. Upon presentation of the order, the bank or
6 depository shall permit the surviving spouse to withdraw the sum and shall lodge
7 the order, endorsing thereon the amount withdrawn, with the circuit clerk who shall
8 retain it in the clerk's files to be considered in connection with further proceedings
9 in the estate and the withdrawal shall be treated as a charge against the property of
10 the estate exempt from distribution.

11 (3) In the application for the setting apart of property or money under subsection (1) of
12 this section, the persons having access to the exemption~~[surviving spouse or, if~~
13 ~~there is no surviving spouse, the surviving children]~~ may make their selection out of
14 the personal property of the estate to the extent they are entitled to the exemption
15 ~~[that the value of the property selected does not exceed the amount of fifteen~~
16 ~~thousand dollars (\$15,000)]~~.

17 (4) Where any person dies testate:

18 (a) There shall be an exemption available to the surviving spouse or surviving
19 children totaling sixty thousand dollars (\$60,000). The surviving spouse and
20 the surviving children shall each have access to fifty percent (50%) of the
21 exemption. If there is no surviving spouse, the surviving children shall have
22 access to one hundred percent (100%) of the exemption, and if there are no
23 surviving children, the surviving spouse shall have access to one hundred
24 percent (100%) of the exemption. The exemption shall be applied to
25 personal property or money on hand or in a bank or other depository. The
26 chosen property shall be exempt from distribution and sale and shall be set
27 apart by the District Court having jurisdiction over the estate on application

1 of the surviving spouse or surviving children ~~Personal property or money on~~
2 ~~hand or in a bank or other depository to the amount of fifteen thousand dollars~~
3 ~~(\$15,000) shall be exempt from distribution and sale and shall be set apart by~~
4 ~~the District Court having jurisdiction over the estate on application of the~~
5 ~~surviving spouse};~~

6 (b) ~~[If there is no surviving spouse, personal property or money on hand or in a~~
7 ~~bank or other depository bequeathed to surviving children to the amount of~~
8 ~~fifteen thousand dollars (\$15,000) shall be exempt from distribution and sale~~
9 ~~and shall be set apart by the District Court having jurisdiction over the estate~~
10 ~~on application by the surviving children;~~

11 (c) ~~—~~ The exemption of the surviving spouse under paragraph (a) of this subsection
12 is not conditioned upon the surviving spouse renouncing the will, and, in the
13 event of renunciation, the surviving spouse shall be entitled to the exemption
14 in addition and prior to determining the statutory share of the surviving spouse
15 under KRS 392.080; and

16 (c) ~~(d)~~ Subsection (3) of this section shall apply with respect to the persons
17 entitled to the exemption ~~[surviving spouse]~~ provided that those persons ~~[the~~
18 ~~surviving spouse]~~ shall first select from among the personal property of the
19 residuary estate, then to the extent necessary from among the money on hand
20 or on deposit specifically bequeathed under the will, and then to the extent
21 necessary from among any other personal property specifically bequeathed
22 under the will. Where the selection of those persons ~~[the surviving spouse]~~ is
23 made up, in whole or in part, from personal property or money on hand or on
24 deposit specifically bequeathed to a beneficiary, such beneficiary shall have a
25 right of contribution on the principles of KRS 394.420 to 394.490 unless the
26 will otherwise directs, or it is necessarily to be inferred therefrom that the
27 testator intended the same to fall on such beneficiary except that there shall be

1 no right of contribution from the persons entitled to the exemption[surviving
2 spouse].